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Item No. 22  
09/25/03

AN ORDINANCE **98203**

**REINSTATING SECTION 21-22 OF THE CITY  
CODE, WHICH REGULATES ADULT  
ARCADES, AND AMENDING THE DEFINITION  
OF "ARCADE DEVICE" TO INCLUDE  
MACHINES THAT ACCEPT PAPER MONEY.**

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**WHEREAS**, Ordinance No. 97497, passed on April 17, 2003, amended City Code Chapter 21, by adding certain provisions regulating "Human Display Establishments" and repealing certain ordinances and section 21-22 of the City Code concerning "Adult Arcades"; and

**WHEREAS**, the City Council finds that the repeal of City Code Chapter 21, Section 21-22 entitled "Adult Arcades" was inadvertent; and

**WHEREAS** the City Council finds that it is necessary for the protection of general welfare, health, safety, of its citizens to immediately reinstate, City Code Chapter 21, Section 21-22, entitled "Adult Arcades"; and

**WHEREAS** the City Council finds that it is necessary to amend the previous definition of "arcade device" by adding the word "currency," thereby making it clear that machines that accept paper money are included under the definition; and

**WHEREAS**, the City Council finds that in all other respects, Ordinance No. 97497 is necessary and that this amendment shall not affect the remainder of Ordinance No. 97497 and the sections of the Code it addressed;

**NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** City Code Chapter 21 Section 21-22 entitled "Adult Arcades" is hereby adopted as amended below:

"Sec. 21-22. Adult arcades.

(a) *Definitions.* As used in this section, the following words shall have the meanings herein ascribed, unless the context of their use clearly indicates another meaning:

(1) *Adult arcade* shall mean any "premises" to which members of the public or members of any club, group or association are admitted and permitted to use one or more arcade devices.

(2) *Arcade device* shall mean any coin, currency or slug operated or electronically or mechanically controlled machine or device that dispenses or effectuates the dispensing of "entertainment" featuring specified sexual activities that is viewed by five (5) or fewer persons in exchange for payment of any consideration.

(3) *Employee* shall mean any person employed by an employer in consideration for monetary compensation or profit.

(4) *Entertainment* shall mean (1) any live exhibition, display or performance, or (2) any still picture(s) or movie picture(s), whether mechanically, electrically or electronically displayed, or (3) any combination of the foregoing, in which the specified sexual activities are depicted.

(5) *Individual* shall mean only a natural person.

(6) *Operator* shall mean the "individual" who is principally in charge of the management of the "adult arcade."

(7) *Owner* shall include, but not limited to, any equitable owner, any person having a possessory right to the land or building or the person occupying it, any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety.

(8) *Premises* shall mean a building; provided that if a building has been physically divided into separate units that each has its own individual means of ingress or egress to the exterior of the building and which are offered by lease or otherwise for separate use and control, then "premises" shall refer to each such separate unit.

(9) *Specified sexual activities* shall mean human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttock or female breast, or any combination thereof.

(b) *Configuration of arcades; lighting; etc.* The following minimum standards shall apply to the interior design of the premises of all adult arcades opening for business after the effective date of this section [Ordinance Number 67481]:

(1) At least one manager's station shall be located within the premises and such location shall provide an employee, operator, agent, or owner on duty, an unobstructed view of every area of the adult arcade to which any patron may be permitted access for any purpose, other than toilet facilities, from said manager's station. If an adult arcade has two (2) or more manager's stations, the interior design of the adult arcade shall be configured to provide an unobstructed view of each area of the adult arcade to which any patron may be permitted access for any purpose other than toilet facilities, from at least one of the manager's stations. The view required must be by direct line of sight from the manager's station. Restrooms may not contain any arcade device.

It shall be the duty of the owners, operators, agents or employees of the adult arcade to ensure that the view area specified in this section remains, unobstructed by merchandise, display racks or other materials at all times that any patron is present in the adult arcade to ensure that no patron is permitted access to any area of the adult arcade which is not within this view area. At all times that any patron is present in the adult arcade, it shall be the duty of the owners, operators, agents or employees of each adult arcade to ensure that at least one person who is charged with responsibility for the operation of the adult arcade is on duty at the adult arcade and situated in the manager's station with the view area designated in (b)(1).

- (2) Each adult arcade shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which any patron may be permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

It shall be the duty of the owners, operators, agents or employees of the adult arcade to ensure that the illumination specified in this section is maintained at all times that any patron is present in the adult arcade or at all times the adult arcade is open for business.

- (3) No adult arcade shall equip any areas into which patrons may be permitted access, other than toilet facilities, with interior doors, screens, curtains or any other opaque coverings which could obstruct the view into an area in which patrons may be permitted access.

It shall be the duty of the owners, operators, agents, or employees of the adult arcade to ensure that each area into which patrons may be permitted access, other than toilet facilities, is not equipped with interior doors, screens, curtains, or any other opaque coverings which could obstruct the view into each area in which patrons may be permitted access.

- (4) All interior walls of any areas into which patrons may be allowed access shall be continuous from floor to ceiling with no apertures, holes or other openings. It shall be the duty of the owners, operators, agents, or employees of the adult arcade to ensure that all interior walls of each area into which patrons may be allowed access is continuous from floor to ceiling with no apertures, holes or other openings.

- (5) It shall be the duty of the owners, operators, agents, or employees to ensure that each separate room or compartment of the adult arcade into which patrons may be allowed access will be prominently displayed to ordinary public view with an educational message as designated in subsections (b)(5)a., (b)(5)b., or (b)(5)c. and complying with the size and language requirements as designated by subsections (b)(5)d. and as (b)(5)e. of this section.

a. STOP AIDS AVOID CONTACT WITH SEXUAL FLUIDS AND DIRTY NEEDLES.

b. AIDS IS TRANSMITTED BY SEX WITHOUT CONDOMS OR BY SHARING NEEDLES.

c. A poster or sign with a similar message as approved in writing by the city health director.

d. As to a. or b., said statements shall be in lettering not less than one and one-half (1 1/2) inches in height; as to c., the height of the lettering shall be within the discretion of the health director.

e. All signage shall be in both the English and Spanish languages, and shall include a designated AIDS information telephone number.

(6) Each adult arcade shall be required to prominently display to ordinary public view and make available to patrons of the arcade, literature concerning sexually transmitted diseases and/or AIDS to be provided by the health department.

It shall be the duty of the owners, operators, agents, or employees to ensure that literature concerning sexually transmitted diseases and/or AIDS which is provided by the health department is permanently and conspicuously displayed to ordinary public view in the adult arcade and made available to the patrons of the arcade.

(c) *Violations; other prohibited conduct; enforcement.*

(1) A person having any duty under subsections 21-22(b)(1) through (6) above commits an offense if he knowingly fails to fulfill that duty or fails to comply with any provision of this section or with any of the requirements hereof.

(2) It shall be unlawful for any owner, operator, agent, or employee present in an adult arcade to knowingly or recklessly allow or permit any of the specified sexual activities to occur in the adult arcade or for any owner, operator or employee to knowingly or recklessly allow or permit the adult arcade to be used as a place in which solicitation for any act of specified sexual activities occur.

(3) In case any premises are erected, constructed, reconstructed, altered, repaired, converted, maintained or used in violation of this section, the city, in addition to imposing criminal sanctions provided therefor, may institute any appropriate action or proceeding, including an action for abatement of a nuisance pursuant to Texas Revised Civil Statutes Annotated 4477-1, or judicial proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, or to prevent such illegal act, conduct or use.


(4) Any persons violating any provisions of this section shall be guilty of a misdemeanor. Each day upon which such a violation occurs constitutes a separate offense. Each structure erected around an arcade device that does not comply with the provisions of this section constitutes a separate violation. Upon conviction, each violation shall be punishable by a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00)."

**SECTION 2.** The City Clerk of the City of San Antonio, Texas, is hereby directed to publish this ordinance in a newspaper published in the City of San Antonio, Texas as authorized by Article II, Section 17 of the Charter of the City of San Antonio.

**SECTION 3.** The publishers of the City Code are authorized to amend said Codes to reflect the changes adopted herein.

**SECTION 4.** This ordinance will become effective on the tenth (10th) day after passage hereof.

**PASSED AND APPROVED** this 25<sup>TH</sup> day of September, 2003.

  
M A Y O R  
EDWARD D. GARZA

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney